

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NEW YORK

UNITED STATES OF AMERICA,

Plaintiff,

DECISION AND ORDER

06-CR-6077L

v.

HOWARD DENNIS KELLY,


Defendant.

Defendant, Howard Dennis Kelly (“Kelly”), stands accused of a single-count indictment charging escape from a federal institutional facility. Counsel was appointed to represent Kelly. Pending before the Court are two motions filed by Kelly, *pro se*, a motion to dismiss (Dkt. #39) and a motion styled *pro se* motion, Rule 12(b), defective indictment. Since Kelly has counsel, he must not file *pro se* motions. If he has appointed counsel, that lawyer should represent him and file pleadings and the Court not entertain *pro se* motions. I have, nevertheless, reviewed the above-referenced motions and find them to be without merit. Therefore, both motions are denied.

CONCLUSION

Defendant's *pro se* motions to dismiss (Dkt. #39 and Dkt. #42) are in all respects denied.¹

IT IS SO ORDERED.



DAVID G. LARIMER
United States District Judge

Dated: Rochester, New York
September 10, 2007.

¹Kelly also filed a motion to dismiss his court appointed attorney which the Court denied from the bench, after making inquiry, on September 6, 2007.